

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEVE ALAN REDONDO,)	No. C 06-7461 JF (PR)
)	
Petitioner,)	ORDER GRANTING MOTION TO
vs.)	PROCEED IN FORMA
)	PAUPERIS; ORDER TO SHOW
)	CAUSE
ROSEANNE CAMPBELL, Warden,)	
)	
Respondent.)	
_____)	(Docket No. 2)

Petitioner, a state prisoner proceeding pro se, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has filed a motion to proceed in forma pauperis. The Court will grant Petitioner's motion to proceed in forma pauperis (docket no. 2) and order Respondent to show cause why the petition should not be granted.

STATEMENT

Petitioner entered a guilty plea for failing to register as a sex offender, pursuant to California Penal Code § 290, in Santa Clara Superior Court. On September 25, 2005, Petitioner was sentenced to a term of twenty-five years-to-life in state prison. Petitioner appealed his sentence. The state appellate court affirmed the judgment in 2006. The state supreme court denied a petition for review in 2006.

1 The instant federal habeas petition was filed on December 6, 2006.

2 DISCUSSION

3 A. Standard of Review

4 A district court may entertain a petition for writ of habeas corpus “in behalf of a
5 person in custody pursuant to the judgment of a State court only on the ground that he is
6 in custody in violation of the Constitution or laws or treaties of the United States.” 28
7 U.S.C. § 2254(a); Rose v. Hodges, 423 U.S. 19, 21 (1975).

8 A district court shall “award the writ or issue an order directing the respondent to
9 show cause why the writ should not be granted, unless it appears from the application that
10 the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

11 B. Petitioner’s Claim

12 Petitioner alleges the following claim for federal habeas relief: (1) his sentence
13 constitutes cruel and unusual punishment under the Eighth and Fourteenth Amendments
14 to the U.S. Constitution and that his sentence is grossly disproportionate under Harmelin
15 v. Michigan.¹ Liberally construed, Petitioner’s claim is sufficient to require a response.
16 The Court orders Respondent to show cause why the petition should not be granted.

17 CONCLUSION

18 1. Petitioner’s motion to proceed in forma pauperis (docket no. 2) is
19 GRANTED.

20 2. The Clerk shall serve by mail a copy of this order and the petition and all
21 attachments thereto upon Respondent and Respondent’s attorney, the Attorney General of
22 the State of California. The Clerk shall also serve a copy of this order on the Petitioner.

23 3. Respondent shall file with the Court and serve on Petitioner, within **sixty**
24 **days** of the issuance of this order, an answer conforming in all respects to Rule 5 of the
25 Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should
26 not be granted. Respondent shall file with the answer and serve on Petitioner a copy of
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28 ¹ Harmelin v. Michigan, 501 U.S. 957 (1991).

1 all portions of the underlying criminal record that have been transcribed previously and
2 that are relevant to a determination of the issues presented by the petition.

3 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse
4 with the Court and serving a copy on Respondent within **thirty days** of his receipt of the
5 answer.

6 4. Respondent may file a motion to dismiss on procedural grounds in lieu of
7 an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules
8 Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file
9 with the Court and serve on Respondent an opposition or statement of non-opposition
10 within **thirty days** of receipt of the motion, and Respondent shall file with the Court and
11 serve on Petitioner a reply within **fifteen days** of receipt of any opposition.

12 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep
13 the Court and all parties informed of any change of address by filing a separate paper
14 captioned "Notice of Change of Address." He must comply with the Court's orders in a
15 timely fashion. Failure to do so may result in the dismissal of this action for failure to
16 prosecute pursuant to Federal Rule of Civil Procedure 41(b).

17 IT IS SO ORDERED.

18 DATED: 4/16/07


JEREMY FOGEL
United States District Judge

1 A copy of this order was mailed to the following:

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3 Steve Alan Redondo
4 F-00214
5 Mule Creek State Prison
6 P.O. Box 409060
7 Ione, CA 95640
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